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 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION

11 Intel Corporation, a Delaware corporation,

12 Plaintiff,

13 vs.

14 The Insurance Company of the State of  
 15 Pennsylvania, a Pennsylvania corporation;  
 and DOES 1 through 100, inclusive,

16 Defendant.

) Case No. C08-03238-PVT

) **INTEL CORPORATION'S NOTICE OF**  
 ) **PENDENCY OF OTHER ACTION OR**  
 ) **PROCEEDING**

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 18 Pursuant to Local Rule 3-13, plaintiff, Intel Corporation (“Intel”) submits that this  
 19 action involves essentially the same claims as *Intel Corporation v. XL Insurance America, Inc.*,  
 20 which currently is pending in the Superior Court of California, Santa Clara County, Case No.  
 21 1-06-CV-061620 before the Honorable Jack Komar (the “*Intel v. XL* Action”).

22 On April 12, 2006, Intel filed the *Intel v. XL* Action against XL Insurance America, Inc.  
 23 (“XL”), Intel’s first layer commercial umbrella liability insurance carrier. XL issued two  
 24 insurance policies to Intel for the period April 1, 1998 to April 1, 2001 (the “XL 00-01  
 25 Policy”) and April 1, 2001 to April 1, 2002 (the “XL 01-02 Policy”). Intel filed the *Intel v. XL*  
 26 Action to enforce Intel’s rights to insurance coverage for two underlying lawsuits entitled  
 27 *Barbara’s Sales, Inc., et al. v. Intel Corporation*, et al, Case No. 02-L-788, filed in the Circuit  
 28

1 Court of Madison County, Illinois (“*Barbara’s Sales Action*”) and *Janet Skold, et al. v. Intel*  
2 *Corporation, et al*, Case No. RG 04145635 initially filed in the Superior Court of California,  
3 County of Alameda and now pending in the Superior Court of California, County of Santa  
4 Clara (“*Skold Action*”) (collectively “the Underlying Litigation”). Both cases in the  
5 Underlying Litigation contained allegations which constitute covered claims under the  
6 comprehensive liability insurance policies issued by XL to Intel.

7 Intel and XL filed cross-motions for summary judgment in the *Intel v. XL Action* and on  
8 February 7, 2008, the Honorable Jack Komar, in interpreting the XL 00-01 Policy, found that  
9 “XL has failed to establish that Intel has no potentially covered liability in the Underlying  
10 Litigation and therefore there is a duty to defend.” February 7, 2008, Order After Hearing at  
11 8:13-14.

12 In or about May 2008, Intel and XL reached a settlement in principal which exhausted  
13 the XL 00-01 Policy. Nonetheless, the *Intel v. XL Action* has yet to be dismissed.

14 Following the exhaustion of the XL 00-01 Policy, on July 1, 2008, Intel filed its  
15 complaint in the Superior Court of California, County of Santa Clara, Case No. 1-08-CV-  
16 116396, for declaratory relief, and for damages arising from ICSOP’s refusal to defend and/or  
17 indemnify Intel against the Underling Litigation that constitute covered claims under the  
18 follow form excess liability insurance policy issued by ICSOP for the policy period of April 1,  
19 1998 to April 1, 2001. Additionally, on July 1, 2008, Intel also filed a Notice of Related Case  
20 in the Superior Court identifying the *Intel v. XL Action* and the *Skold action*,<sup>1</sup> both of which are  
21 pending in front of the Honorable Jack Komar. Shortly thereafter, on July 3, 2008, ICSOP  
22 filed its Notice of Removal of Civil Action Under 28 U.S.C. § 1332 [Diversity Jurisdiction].

23 Both the *Intel v. XL Action* and the instant action involve issues of insurance coverage  
24 for the same Underlying Litigation and both actions involve the same insurance policy  
25 language issued by XL and ICSOP. Although ICSOP is not a party to the *Intel v. XL Action*,

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27 <sup>1</sup> The *Barbara’s Sales Action* was dismissed with prejudice on March 20, 2008.

1 the policy language is the same and the proceedings should be, at a minimum, coordinated to  
2 avoid conflicts, conserve resources and promote efficient determination of the action.

3 Respectfully submitted,

4 Dated: July 15, 2008

HOWREY LLP

6 By: /s/ Lester O. Brown

7 Lester O. Brown  
8 Attorneys for Plaintiff  
9 Intel Corporation  
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